Office Action Summary	Application No.	Applicant(s)	
	09/821,190	KENNER ET AL.	
	Examiner	Art Unit	
	RAMY M. OSMAN	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-9,12-26,28-34 and 36-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-9,12-26,28-34 and 36-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This communication is in response to amendment filed October 17, 2007 where applicant amended claims 1,32,45. Claims 1-4,6-9,12-26,28-34,36-48 are pending.

Response to Arguments

2. Applicant's arguments filed 10/17/2007 with respect to the claims have been fully considered but are not found to be persuasive.

3. Applicants argument on page 15 of "Remarks" appears to suggest that Apfel does not teach the amended limitation of "without user intervention" because Apfel mentions a user prompt at step 439 in Figure 4B.

In reply, Firstly, in claim 1 for example, the limitation "without user intervention" is mentioned in three different contexts (i.e. "initiate", "receive", and "display"), and is an attempt to further limit its preceding limitation of "automatically" (i.e. "automatically, without user intervention, …"). However, Applicant has failed to mention which of the contexts is it that Apfel does not teach and why. Despite this, Apfel teaches a method of "automatically" updating software module components (column 7 lines 33-34). This method is illustrated by Apfel in at least Figures 4A & 4B which do include steps that do not require user intervention (like step 406 in Figure 4A).

Secondly, Applicant has failed to show support in the original disclosure for the amended limitations. Absent an explanation from Applicant, on its face-value the limitation "without user intervention" appears to be lacking support in Applicants disclosure. In this regard, a 112 1st

paragraph rejection to the claims is detailed below. **(See MPEP chapter 714.02 and chapter 2163.04 section (I.) and chapter 2163.06)** Thirdly, the amended limitation "without user intervention" is a negative limitation. Although this type of limitation is not inherently indefinite, it is required that it has a basis in the original disclosure. Absent any positively recited alternatives in the specification, on its face-value the limitation "without user intervention" appears to be lacking support in Applicants disclosure. In this regard, a 112 1st paragraph rejection to the claims is detailed below. **(See MPEP 2173.05(i))**

4. On page 16 of "Remarks" Applicant argues that regarding claim 18 "Apfel does not disclose that the upgrades are graphical elements of a web page or that graphical elements of a web page are downloaded without downloading the entire page".

In reply, Firstly, Applicants arguments are moot in view of new grounds of rejection presented below. Secondly, Applicant has failed to show support in the original disclosure for the amended limitation of "a request for a download of a graphical content element of a web page…" (Amended on 4/2/2007). Absent an explanation from Applicant, on its face-value the limitation "download of a graphical content element" appears to be lacking support in Applicants disclosure. **(See MPEP chapter 714.02 and chapter 2163.04 section (I.) and chapter 2163.06)** Thirdly, the amended limitation "receiving only the graphical element … without receiving the whole web page" (Amended on 9/8/2005) is a negative limitation. Although this type of limitation is not inherently indefinite, it is required that it has a basis in the original disclosure. Absent any positively recited alternatives in the specification, on its face-value the limitation "receiving only the graphical element … without receiving the whole web page" appears to be

lacking support in Applicants disclosure. In this regard, a 112 1st paragraph rejection to the claim is detailed below. **(See MPEP 2173.05(i))**

Claim Objections

5. Claims 6,7,28 objected to because of the following informalities: Each of these claims depend on a cancelled claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1,32,45 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1, for example, recites "automatically, without user intervention, initiate a request for the posted content;". Applicant has not pointed out where the amended limitation is supported in the specification. **(See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)** On its face value, this limitation states that a request is initiated without any sort of user intervention. However, paragraph 26 of Applicants specification (see PG-Pub 2002/0143900) states that indeed there is user interaction/intervention when a request is initiated.

Firstly, ¶ 26 lines 1-7 mention that a program which resides on a content recipients device (i.e. users device) is automatically initiated when the content recipient (i.e. user) either starts their device or access a network via their device. This then causes the program to interrogate (i.e. request) a content provider for content (i.e. posted content). From this it is clear that a user action is first required in order to effect a request for content. Secondly, ¶ 26 lines 13-25 mention that a content recipient (i.e. user) manually identifies which content provider(s) is to be requested. This demonstrates another user interaction/intervention which is involved in initiating the request to the content provider. Thirdly, the previous two user interactions are required for request mentioned in ¶ 30 line 6. The specification has not described with sufficient detail how a request is initiated without user intervention, and therefore this amended limitation is regarded as new matter. On the contrary, the specification has described that a request is initiated in response to specific user actions, as mentioned above.

Claim 1 also recites "automatically, without user intervention, receive the posted content". Applicant has not pointed out where the amended limitation is supported in the specification. **(See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)** On its face value, this limitation states that the content is received without any sort of user intervention. However, paragraphs 26 and 30 of Applicants specification (see PG-Pub 2002/0143900) show otherwise. ¶26 lines 1-7 mention that a user action of either starting a user device or accessing a network via the device, is needed to initiate interrogation (i.e. request) of the content provider. Also, ¶ 26 lines 13-25 mention that a content recipient (i.e. user) manually identifies the content provider(s) that it wishes to receive content from. These manual actions demonstrate that reception of the posted content is not "without user intervention". Further

more, ¶ 30 lines 6-13 and ¶ 31 lines 1-9 only mention that the program 60 performs a determination as to whether the posted content was received or not. The specification has not described with sufficient detail how content is received without user intervention, and therefore this amended limitation is regarded as new matter. The specification has only mentioned determining whether the content was received or not, and has not mentioned "automatically, without user intervention, receive the posted content", as mentioned above.

8. Claim 18 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites the amended limitation "receiving only the graphical element … without receiving the whole web page" (Amended on 9/8/2005). Applicant has not pointed out where the amended limitation is supported in the specification. **(See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)** Furthermore, this is a negative limitation, where negative limitations are required to have a basis in the original disclosure. **(See MPEP 2173.05(i))**. The only example provided in the specification is regarding receiving posted notes (see Figure 2 #22). ¶ 28 mentions that the content of interest to be downloaded is notes (#22). The use of graphics is mentioned in ¶ 21 lines 14-19, where graphic(s) (see Figure 2 #26) are used to embed URLs in order to re-direct content recipients to other web pages. Nowhere in the specification is it mentioned that graphical content elements are downloaded, or that only graphical content elements are downloaded without receiving the whole web page. Absent a

positively recited alternative(s) in the specification, these limitations lack support in Applicants disclosure and are therefore regarded as new matter.

9. Claims 46,47,48 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Each of the claims are new claims presented in the amendment filed on 9/26/2006, and each recite "without providing an e-mail address of the content recipient to the content provider". Applicant has failed to point out where these new claims are supported in the specification. **(See MPEP 2163.03 (I.) and 2163.04 (I.) and 2163.06)** These are negative limitations, where negative limitations are required to have a basis in the original disclosure. **(See MPEP 2173.05(i))** Nowhere in Applicants specification is there even a mention of an "e-mail address", let alone a mention of not providing the content recipients e-mail address to the content provider. Absent a positively recited alternative(s) in the specification, these limitations lack support in Applicants disclosure and are therefore regarded as new matter.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-4,6-9,17,43 and 46 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Ballard (US Patent No 6,473,756).

12. ***In reference to independent claim 1,*** Apfel teaches a method performed at a content recipient, and a computer readable storage comprising:

executing first program code at the content recipient so as to identify a content provider having posted content of interest to the content recipient (column 6 lines 40-45, Apfel discloses identifying a server (i.e. provider) that has content of interest);

executing second program code at the content recipient so as to automatically, without user intervention, initiate a request for the posted content (column 7 lines 4-9, Apfel discloses the local computer sending a query (i.e. request) to the server (i.e. provider) for an update (i.e. content));

executing third program code at the content recipient so as to automatically, without user intervention, receive the posted content at the content recipient in response to execution of the second program code (column 10 lines 61-63, Apfel discloses downloading the content); and

Although Apfel teaches providing an indirect notice that the content was downloaded by updating the registry (column 11 lines 1-5), Apfel fails to explicitly teach executing fourth program code at the content recipient so as to *display* a notice to the content recipient that the

posted content has been received at the content recipient in response to execution of the second and third program code. However, Ballard discloses displaying a message to a user indicating that a download is complete for the purpose of keeping the user informed as to the status of their request (Ballard, column 7 lines 1-7).

It would have been obvious for one of ordinary skill in the art to modify Apfel by providing a notice to the content recipient that the posted content has been received at the content recipient as per the teachings of Ballard for the purpose of keeping the user informed as to the status of their request.

As for its dependent claims:

13. In reference to claim 2, Apfel teaches the method of claim 1 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36, Apfel discloses cancelling auto-update feature).

14. In reference to claim 3, Apfel teaches the method of claim 1 wherein the executing of the second program code at the content recipient so as to automatically initiate a request for the posted content comprises executing second program code at the content recipient so as to automatically and recurrently initiate requests for the posted content (column 8 lines 22-33, Apfel discloses periodic updating).

15. In reference to claim 4, Apfel teaches the method of claim 3 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36, Apfel discloses cancelling auto-update feature).

16. In reference to claim 6, Apfel teaches the method of claim 5 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36, Apfel discloses cancelling auto-update feature).

17. In reference to claim 7, Apfel teaches the method of claim 5 wherein the executing of the second program code at the content recipient so as to automatically initiate a request for the posted content comprises executing second program code at the content recipient so as to automatically and recurrently initiate requests for the posted content (column 8 lines 22-33, Apfel discloses periodic updating).

18. In reference to claim 8, Apfel teaches the method of claim 7 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36, Apfel discloses cancelling auto-update feature).

19. In reference to claim 9, Apfel teaches the method of claim 1 further comprising executing fifth program code at the recipient so as to provide notice to the content recipient that no posted content has been received by the content recipient in response to execution of the second program code (column 9 lines 40-48, Apfel discloses a "NOUPDATE" message that notifies the recipient that there is no new content).

20. In reference to claim 17, Apfel teaches the method of claim 1, electronically receiving the second program code at the content recipient from the content provider (column 6 line 63 – column 7 line 9).

21. In reference to claim 43, Apfel teaches the method of claim 1, further comprising executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed to a user (Ballard column 7 lines 1-7, see above rationale).

22. In reference to claim 46, Apfel teaches the method of claim 1, wherein they are performed without providing an e-mail address of the content recipient to the content provider (column 8 lines 45-55, Apfel disclose a query which does not involve email address of the recipient).

23. **Claims 12,13,15,16 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Ballard (US Patent No 6,473,756) in further view of Stephens (US Patent No 6,557,026).**

24. In reference to claim 12, Apfel teaches the method of claims 1. Apfel fails to teach wherein executing third program code so that the posted content, when received, is displayed behind a session if the session is active. However, Stephens teaches where information can be viewed on a computer by the use of overlaying windows in front of each other. Stephens discloses outputting a window to a display even though the window will not be visible to a user where the user can later be alerted of its presence (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60). It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) behind an active window as per the teachings of Stephens so as to later be alerted of its presence.

25. In reference to claim 13, Apfel in view of Stephens teach the method of claim 12, wherein the executing of the fourth program code at the content recipient comprises executing the fourth code so as to display the notice even if the session is active (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60, see above rationale).

26. In reference to claims 15,16, Apfel in view of Stephens teach the method of claim 13 above. Apfel fails to explicitly teach wherein the method further comprises executing fifth

program code at the content recipient so that, upon an action related to the notice, the posted content burns through the session so that the posted content is visible to a user; and comprises executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed in front of the session so that the posted content is visible to a user. However, Stephens teaches overlaying windows for multiple active programs. Stephens discloses bringing a window layer to the front of all other layers so that the layer can then be visible to a user (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60).

It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) in front of an active window as per the teachings of Stephens so as to be alerted of its presence.

27. Claim 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Ballard (US Patent No 6,473,756) in further view of Stephens (US Patent No 6,557,026) in further view of Beyda et al (US Patent No 6,636,965).

In reference to claim 14, Apfel in further view of Stephens teach the method of claim 13. Apfel fails to explicitly teach wherein the notice is an icon. However, Beyda teaches recipients receiving electronic messages. Beyda discloses icons accompanying the messages for the purpose of alerting users of the message (Abstract and column 4 lines 10-20). It would have been obvious for one of ordinary skill in the art to modify Apfel by making the notice an icon as per the teachings of Beyda complete messages for the purpose of alerting users of the message.

28. The text of the relevant sections of Title 35, U.S. Code §103 is cited above.

29. Claims 18,19,26,28-31,44,47 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Crill et al (US Patent No 6,445,822).

30. ***In reference to independent claim 18,*** Apfel teaches a computer readable medium, storing code, when executed by a computing device, performs the following functions:

automatically initiating a request for the download of a content element posted by a content provider (column 7 lines 4-9, Apfel discloses the local computer sending a query (i.e. request) to the server (i.e. provider) for an update (i.e. content element)); and

Apfel teaches downloading upgrade components for a program (column 7 lines 4-9 & 33-34). Apfel fails to explicitly teach that the content element is a graphical content element of a web page posted by a content provider; and receiving only the graphical content element in response to the request without receiving the whole web page. However, Crill teaches downloading content based on comparison status for the purpose of facilitating the download of a specific type of content. Crill discloses searching an HTML file (i.e. web page) and downloading only the graphic files without downloading other portions of the web page (Crill, column 8 lines 17-23). It would have been obvious for one of ordinary skill in the art to modify Apfel wherein the content element is a graphical content element of a web page posted by a content provider; and receiving only the graphical content element in response to the request without receiving the whole web page as per the teachings of Crill for the purpose of downloading only what is specifically needed to update a program. In this case, the program component of Apfel that would be updated is the graphical elements of the program as provided

by Crill for the purpose of facilitating the download of only a specific type of content that is needed.

As for its dependent claims:

31. In reference to claim 19, Apfel teaches the computer readable storage medium of claim 18, wherein the code provides notice that the posted content has been received in response to the request (column 11 lines 1-5, Apfel provides an indirect notice that content was received via an update to the registry).

32. In reference to claim 26 Apfel teaches the computer readable storage medium of claim 18, wherein the stored code when executed, automatically and recurrently initiate requests for the posted content (column 8 lines 22-33, Apfel discloses periodic updating).

33. In reference to claim 28 Apfel teaches the computer readable storage medium of claim 27, wherein the stored code when executed, automatically and recurrently initiate requests for the posted content (column 8 lines 22-33, Apfel discloses periodic updating).

34. In reference to claim 29, Apfel teaches the computer readable storage medium claim 18, providing notice that no posted content has been received in response to the request (column 9 lines 40-48, Apfel discloses a "NOUPDATE" message that notifies the recipient that there is no new content).

35. In reference to claim 30, Apfel teaches the computer readable storage medium of claim 18 wherein the stored program code is electronically received from the content provider and is stored by the computer readable storage medium (column 6 line 63 – column 7 line 9).

36. In reference to claim 31, Apfel teaches the computer readable storage medium of claim 30 wherein the remote site is the content provider (column 6 line 63 – column 7 line 9).

37. In reference to claim 44, Apfel teaches the computer readable storage medium of claim 18, wherein the content element comprises a note attached to the web page (column 5 line 63 – column 6 line 2).

38. In reference to claim 47, Apfel teaches the computer readable storage medium of claim 18, wherein without providing an e-mail address of the content recipient to the content provider (column 8 lines 45-55, Apfel disclose a query which does not involve email address of the recipient).

39. **Claims 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Crill et al (US Patent No 6,445,822) in further view of Ballard (US Patent No 6,473,756).**

40. In reference to claim 22, Apfel teaches the computer readable storage medium of claim 18 above. Although Apfel teaches providing an indirect notice that the content was downloaded by updating the registry (column 11 lines 1-5), Apfel fails to explicitly teach executing fourth program code at the content recipient so as to *display* a notice to the content recipient that the posted content has been received at the content recipient in response to execution of the second and third program code. However, Ballard discloses displaying a message to a user indicating that a download is complete for the purpose of keeping the user informed as to the status of their request (Ballard, column 7 lines 1-7).

It would have been obvious for one of ordinary skill in the art to modify Apfel by providing a notice to the content recipient that the posted content has been received at the content recipient as per the teachings of Ballard for the purpose of keeping the user informed as to the status of their request.

41. **Claims 20,21,24,25 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Stephens (US Patent No 6,557,026).**

42. In reference to claim 20, Apfel in view of Crill teach the computer storage medium of claim 18. Apfel fails to teach wherein executing third program code so that the posted content, when received, is displayed behind a session if the session is active. However, Stephens teaches where information can be viewed on a computer by the use of overlaying windows in front of each other. Stephens discloses outputting a window to a display even though the window will not be visible to a user where the user can later be alerted of its presence (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60). It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) behind an active window as per the teachings of Stephens so as to later be alerted of its presence.

43. In reference to claim 21, Apfel teaches the computer readable storage medium of claim 20, wherein the code provides notice that the posted content has been received in response to the request (column 11 lines 1-5, Apfel provides an indirect notice that content was received via an update to the registry).

44. In reference to claims 24 and 25, Apfel teaches the computer readable storage of claim 18 above. Apfel fails to explicitly teach burning the posted content the posted content through a session so that the posted content is visible to a user; and displaying the posted content in front of the session so that the posted content is visible to a user. However, Stephens teaches overlaying windows for multiple active programs. Stephens discloses bringing a window layer to the front of all other layers so that the layer can then be visible to a user (column 2 lines 3-11 & 53-67 and column 10 lines 20-67). It would have been obvious for one of ordinary skill in the art to modify

to display a window (i.e the posted content) in front of an active window as per the teachings of Stephens so as to be alerted of its presence.

45. Claims 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Crill et al (US Patent No 6,445,822) in further view of Beyda et al (US Patent No 6,636,965).

In reference to claim 23, Apfel in view of Crill teach the computer readable storage medium of claim 18. Apfel fails to explicitly teach wherein the notice is an icon. However, Beyda teaches recipients receiving electronic messages. Beyda discloses icons accompanying the messages for the purpose of alerting users of the message (Abstract and column 4 lines 10-20). It would have been obvious for one of ordinary skill in the art to modify Apfel by making the notice an icon as per the teachings of Beyda complete messages for the purpose of alerting users of the message.

Claim Rejections - 35 USC § 102

46. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

47. Claims 32-34,40,41,45,48 rejected under 35 U.S.C. 102(b) as being anticipated by Apfel et al (US Patent No 5,974,454).

48. ***In reference to independent claim 32***, Apfel teaches a method comprising:

executing first program code at content provider so as to post content for access by a content recipient (column 5 line 62 – column 6 line 2 and column 6 lines 23-25, Apfel discloses Internet sites (i.e. providers) hosting program components (i.e. content) for access by local computers (i.e. recipients));

executing second program code at content recipient so as to automatically, without user intervention, (i) access the content provider (column 7 lines 4-9, Apfel discloses the local computer sending a query (i.e. request) to the server (i.e. provider)) and (ii) initiate receipt by the content recipient of the posted content if the posted content is new (column 6 line 63 – column 7 line 9, Apfel discloses initiating a request and download if an upgrade is available (i.e. if content is new));

executing third program code at the content provider so as to send a message notifying the content recipient that the posted content is not new (column 9 lines 40-48, Apfel discloses a "NOUPDATE" message that notifies the recipient that there is no new content); and

electronically receiving the second program code at the content recipient (column 10 lines 61-63, Apfel discloses downloading the content).

49. ***In reference to independent claim 45***, Apfel teaches a method comprising:

executing first program code at content recipient so as to identify a content provider having posted content of interest to the recipient (column 6 lines 40-45, Apfel discloses identifying a server (i.e. provider) that has content of interest);

executing second program code at content recipient so as to automatically, without user intervention, initiate a request for the posted content and to automatically, without user intervention, download the posted content if the posted content is not new (column 6 line 63 –

column 7 line 9 and column 10 lines 48-63, Apfel discloses initiating a request and download if an upgrade is available (i.e. if content is new)); and

executing third program code at the content recipient so as to receive a notice that the content provider has no new content to download to the content recipient (column 9 lines 40-48, Apfel discloses a "NOUPDATE" message that notifies the recipient that there is no new content).

As for their dependent claims:

50. In reference to claim 33, Apfel teaches the method of claim 32 further comprising canceling future requests for the posted content without communicating such an intent to the content provider (column 8 lines 30-36, Apfel discloses cancelling auto-update feature).

51. In reference to claim 34, Apfel teaches the of claim 32 wherein the executing of the second program code at the content recipient so as to automatically and recurrently (i) access the content provider and (ii) initiate the receipt by the content recipient of the posted content (column 8 lines 22-33, Apfel discloses periodic updating).

52. In reference to claim 40, Apfel teaches the method of claim 32 further comprising executing third program code at the content provider so as to determine whether the content recipient possesses the second program code and, if the content recipient does not posses the second program code, to download the second program code to the content recipient (column 10 lines 7-33, Apfel discloses determining whether an update is available).

53. In reference to claim 41, Apfel teaches the method of claim 32, wherein electronically receiving the second program code at the content recipient from the content provider (column 6 line 63 – column 7 line 9).

54. In reference to claim 48, Apfel teaches the method of claim 32, wherein they are performed without providing an e-mail address of the content recipient to the content provider (column 8 lines 45-55, Apfel disclose a query which does not involve email address of the recipient).

55. The text of the relevant sections of Title 35, U.S. Code §103 is cited above.

56. **Claims 36-39 rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al (US Patent No 5,974,454) in view of Stephens (US Patent No 6,557,026).**

57. In reference to claim 36, Apfel teaches the method of claims 32. Apfel fails to teach wherein executing third program code so that the posted content, when received, is displayed behind a session if the session is active. However, Stephens teaches where information can be viewed on a computer by the use of overlaying windows in front of each other. Stephens discloses outputting a window to a display even though the window will not be visible to a user where the user can later be alerted of its presence (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60). It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) behind an active window as per the teachings of Stephens so as to later be alerted of its presence.

58. In reference to claim 37, Apfel in view of Stephens teach the method of claim 36, wherein the executing of the fourth program code at the content recipient comprises executing the fourth code so as to display the notice even if the session is active (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60, see above rationale).

59. In reference to claims 38,39, Apfel in view of Stephens teach the method of claim 37 above. Apfel fails to explicitly teach wherein the method further comprises executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content burns through the session so that the posted content is visible to a user; and comprises executing fifth program code at the content recipient so that, upon an action related to the notice, the posted content is displayed in front of the session so that the posted content is visible to a user. However, Stephens teaches overlaying windows for multiple active programs. Stephens discloses bringing a window layer to the front of all other layers so that the layer can then be visible to a user (Stephens, column 6 lines 20-35 and column 7 lines 35-40 & 50-60).

It would have been obvious for one of ordinary skill in the art to modify to display a window (i.e the posted content) in front of an active window as per the teachings of Stephens so as to be alerted of its presence.

Conclusion

60. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

61. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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RMO
February 25, 2008